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No. 357

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1969

GENERAL TELEPHONE COMPANY OF CALIFORNIA, ET AL.,
Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION, UNITED STATES OF AMERICA, NATIONAL CABLE TELEVISION ASSOCIATION, INC., ET AL., *Respondents.*

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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INDEX

	Page
Opinions Below	1
Jurisdiction	2
Question Presented	2
Statutory Provisions	2
Statement	3
Reasons for Granting the Writ	8
I. The Commission's Decision Ousts the States of Regulatory Authority Over the Construction and Operation of Intrastate Common Carrier Lines Used To Provide Local Distribution Service to CATV Operators	8
II. The Decision Below Gives CATV Operators Who Own Distribution Facilities an Undue Competitive Advantage Over Those Operators Who Rely Upon Common Carriers for Distribution Service	11
III. The Decision Below Is Not Consistent With Applicable Decisions of This Court	13
Conclusion	17
Attachment A	18
Attachment B	20

TABLE OF CITATIONS

CASES:

AT&T, 9 F.C.C. 2d 30 (1967)	15
Better T.V., Inc. v. *New York Telephone Co.*, 17 F.C.C. 2d 367 (1969)	9, 12
Carter Mountain Trans. Corp. v. *FCC*, 321 F.2d 359 (D.C. Cir.), *cert. denied*, 375 U.S. 951 (1963)	15
Federal Radio Comm'n v. *Nelson Bros. Bond & Mtge. Co.*, 289 U.S. 266 (1933)	7

Page

Fortnightly Corp. v. *United Artists Television, Inc.*, 392 U.S. 390 (1968) 15
ITT World Communications, Inc., 13 F.C.C. 2d 924 (1968) 10
New England Telephone & Telegraph Co., 17 F.C.C. 2d 33 (1969) 10
New Orleans Term. Co. v. *Spencer*, 366 F.2d 160 (5th Cir. 1966), *cert. denied*, 386 U.S. 942 (1967) 9
Pennsylvania R.R. v. *Public Utilities Commission*, 298 U.S. 170 (1936) 13
Pennsylvania R.R. v. *United States*, 242 F. Supp. 890 (E.D. Pa. 1965), *aff'd*, 382 U.S. 372 (1966) 13
Scenic Hudson Pres. Conf. v. *FPC*, 354 F.2d 608 (2d Cir. 1965), *cert. denied*, 384 U.S. 941 (1966) 9
TV Pix, Inc. v. *Taylor*, — F. Supp. —, Civ. No. 1814 (D. Nev. 1968) 11
United States v. *Southwestern Cable Co.*, 392 U.S. 157 (1968) 4, 11
Yonkers v. *United States*, 320 U.S. 685 (1944) 14

STATUTES:

Communications Act of 1934 (47 U.S.C. § 151)

Sec. 2(b)(1) 2, 5, 6, 13
2(b)(2) 2, 5, 7, 8, 16
3(u) 5
201-205 2
214 ..... 3, 5, 6, 8, 9, 10, 11, 12
214(a) 4, 5, 12, 16
214(a)(1) 5, 7, 16
214(a)(2) 5, 7, 16
312(b) 6

Interstate Commerce Act (49 U.S.C. § 1) 14
28 U.S.C. § 1254(1) 2

LEGISLATIVE MATERIALS:

Sen. Rep. No. 781, Committee on Interstate Commerce, 73d Cong., 2d Sess., p. 2 (1934) 14
78 Cong. Rec. 8823 (1934) 14

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

OPINIONS BELOW

The opinion of the Federal Communications Commission (R. 2853) is officially reported at 13 F.C.C. 2d 448 (1968), and is reproduced in the separate appendix to this petition. (A30). The opinion of the United States Court of Appeals for the District of Columbia Circuit (R. 3067) is not yet officially reported, but is reprinted in the separate appendix to this petition. (A1).

JURISDICTION

The judgment of the United States Court of Appeals for the District of Columbia Circuit was entered on April 30, 1969. (R. 3095; A27). The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

QUESTION PRESENTED

Whether the statutory plan of the Communications Act of 1934, as amended, for allocation between state and federal agencies of regulatory authority over communications common carriers is violated by an order of the Federal Communications Commission that requires a common carrier to obtain Commission approval prior to the construction or operation of a common carrier line that (1) will lie wholly within one state, (2) will be less than ten miles long and not extend beyond the limits of a single local community, and (3) will be used to provide a local distribution service to a CATV operator?

STATUTORY PROVISIONS

Section 2(b) of the Communications Act of 1934, as amended (47 U.S.C. § 152), provides in pertinent part:

> Subject to the provisions of section 301 of this title, nothing in this chapter shall be construed to apply or to give the Commission jurisdiction with respect to (1) charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communication service by wire or radio of any carrier, or (2) any carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier . . . except that sections 201-205 of this title shall, ex-

cept as otherwise provided therein, apply to carriers described in clauses (2)-(4) of this subsection.

Section 214 of the Communications Act of 1934, as amended (47 U.S.C. § 214), provides in pertinent part:

> (a) No carrier shall undertake the construction of a new line or of an extension of any line, or shall acquire or operate any line, or extension thereof, or shall engage in transmission over or by means of such additional or extended line, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line: *Provided,* That no certificate shall be required under this section for the construction, acquisition, or operation of (1) a line within a single State unless such line constitutes part of an interstate line, (2) local, branch, or terminal lines not exceeding ten miles in length .... As used in this section the term "line" means any channel of communication established by the use of appropriate equipment, other than a channel of communication established by the interconnection of two or more existing channels ....

STATEMENT

The petitioners are thirty-five telephone companies ("the carriers"), six of which are affiliates of the General Telephone System, ten of which are affiliates of the United Telephone System, and nineteen of which are affiliates of the Bell System.[1] They seek review of a decision of the United States Court of Appeals

[1] The petitioners are listed in Attachment A to this petition.

for the District of Columbia Circuit affirming a decision and order of the Federal Communications Commission which held that Section 214(a) of the Communications Act requires the carriers to obtain the Commission's approval prior to their construction or operation of intrastate common carrier lines used to provide a local distribution service to CATV operators. This case involves the Commission's jurisdiction over common carriers, and unlike *United States* v. *Southwestern Cable Co.*, 392 U.S. 157 (1968), does not concern its jurisdiction over CATV operators (who have been held by both the Commission and this Court not to be common carriers, *id.* at 169 n. 29). Thus, this case does not involve the Commission's jurisdiction over distribution lines owned by those CATV operators who do not utilize the services of common carriers. The Commission has never required such CATV operators to obtain approval for the construction of their lines. (R. 2854-55).

The common carrier service involved in this case is used by other CATV operators—those who do not own distribution lines—for the local distribution both of broadcast signals which they receive and of programs, time signals and the like which they originate locally. The common carrier facilities used for this service are very similar to, and in some instances are identical with, other facilities (long used by the carriers to provide similar services) for which FCC approval under Section 214(a) has never been required.[2] (R. 522-26; Tr. 411, 433).

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[2] For example, the FCC has never required certificates of public convenience and necessity for the intrastate and local lines used in the transmission of visual matter between a central source and multi-distribution points (such as between a bank office and its branches) or in the connection of program sources with theaters for closed circuit television viewing.

The lines by which the carriers provide services to CATV operators are located wholly within single States (in each instance but one) and are not connected to any other common carrier lines. (R. 527, 534, 905-34, 974). In all but one of the communities served the local distribution common carrier service is provided entirely within a ten-mile radius from the CATV operator's antenna. (R. 545-51, 894-934, 939).

On these facts, the carriers argued before both the Commission and the court below that Congress by three distinct statutory provisions left regulation of their lines to the States: Section 2(b)(1), which provides that the FCC shall have no jurisdiction over "facilities" used by "any carrier" for "intrastate communication service by wire or radio;" Section 214(a)(1), which provides that a line within a single State and not part of an interstate line is not subject to the certification requirements of Section 214(a); and Section 214(a)(2), which provides that "local, branch, or terminal lines" less than ten miles long are similarly not subject to Section 214(a). Additionally, those General and United Systems carriers which had never been held to be subject to Section 214 because they came within the definition of "connecting carriers" under Sections 2(b)(2) and 3(u) argued that the construction and operation of the lines here at issue did not make them subject to the FCC's Section 214 jurisdiction.

In support of their arguments with respect to these provisions, the carriers contended that these limitations upon the Commission's jurisdiction were designed to allocate federal and state regulatory authority over common carriers under Title II of the Act and were in no way affected by the Commission's broad

power over broadcasters, radio users and CATV operators under Title III of the Act.

In its decision and order the Commission rejected these arguments, and held that it had jurisdiction to require certificates of public convenience and necessity under Section 214 prior to the construction, operation or acquisition of common carrier lines used to provide local distribution service to CATV operators.[3]

The Court of Appeals affirmed the Commission on all points. In ruling upon the issue whether the common carrier service here was "intrastate communications service" under Section 2(b)(1), the court stated:

> "The Commission has construed its own statutory grant after much study and indeed not without periods of doubt and reservation as embracing all links, including strictly intrastate links, as being part of the interstate transmission. Its interpretation of its grant and its application are entitled, of course, to great deference. The petitioners have, by choice, inserted themselves as links in this indivisible stream and have become

[3] In its order the Commission also held that since the common carrier facilities here at issue had been constructed without Seciton 214 certificates, the cease and desist provision of the Act, Section 312(b), was applicable. It ordered the carriers to cease and desist from (a) the further construction of any facilities for CATV local distribution service until appropriate certificates had been obtained and (b) the operation of any facilities that were completed on or before the release date of the Commission's decision subject, however, to certain conditions that if met permitted continued operation. Subsequently, the Commission stayed its cease and desist orders pending judicial review, except insofar as they related to new construction or to the operation of systems that were not activated on or before the Commission's decision. (R. 3056). That stay order remains in effect by virtue of the order of the Court of Appeals which stayed its mandate pending this application for certiorari.

> an integral part of interstate broadcast transmission. They cannot have the economic benefits of such carriage as they perform and be free of the necessarily pervasive jurisdiction of the Commission. *Federal Radio Comm'n* v. *Nelson Bros. Bond & Mtge. Co.*, 289 U.S. 266 (1933)." (A19-20).

Thus, the court, relying upon the Commission's "pervasive jurisdiction" over broadcasting, appears to have accepted the Commission's rationale that the interstate character of broadcast signals makes inapplicable specific statutory limitations upon the Commission's jurisdiction over intrastate common carrier lines.[4]

On the same basic rationale, the court agreed with the Commission that the common carrier lines were not exempted by Section 214(a)(1), holding that they were parts of interstate lines, even though they lay wholly within one state and were not connected to any other common carrier lines, since they carried broadcast signals (A22); it affirmed the Commission's holding that the carriers' lines, although they are situated solely within local communities and provide local distribution service, were not "local, branch, or terminal lines" within Section 214(a)(2), since it was convinced that the "central purpose" of this exemption would not be served by applying it to the provision of "TV service via CATV to an area that has theretofore been without broadcast distribution facilities" (A23-24); and it dispatched in a footnote

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[4] Both by its citation of 12 cases involving the FCC's Title III power with respect to the regulation of broadcasting and other forms of radio transmission and by references to the FCC's "pervasive jurisdiction" over broadcasting the court indicated that it believed this case was controlled by the fact that broadcast signals are carried by the common carrier service here at issue.

the contention of the connecting carriers that Section 2(b)(2) in any event precluded the Commission's assertion of Section 214 jurisdiction, holding that "the exclusion embodied in Section 2(b)(2) was meant to protect State jurisdiction over local telephone facilities which could place interstate calls through their connection with major toll lines" (A21, n. 19).

REASONS FOR GRANTING THE WRIT

I. The Commission's Decision Ousts the States of Regulatory Authority Over the Construction and Operation of Intrastate Common Carrier Lines Used To Provide Local Distribution Service to CATV Operators

This case involves the first instance since the passage of the Communications Act of 1934 in which the Commission has ousted the States from regulatory authority over the construction and operation of common carrier lines that are located within single States, are local in character and less than ten miles long, and are used to provide a local distribution common carrier service.

The immediate consequence of the decision below is the preemption of state regulation of common-carrier construction and operation of lines located solely within single States. Thirty-two States have statutes that give state regulatory commissions much the same jurisdiction over intrastate common carrier lines that Section 214 of the Communications Act gives the FCC with respect to interstate lines.[5] Moreover, other States regulate the construction of intrastate common carrier lines through municipal governments or through their rate regulation powers. The decision below nullifies each of these state enactments and regulatory measures insofar as they apply to intrastate common carrier lines used for common carrier service to CATV operators.

[5] Attachment B is a compilation of these state statutes.

This impact upon the common carrier regulatory scheme of most of the fifty States, standing alone, justifies this Court's review of the decision below.

The court's decision also endangers many other aspects of state regulation of common carriers, as well as of CATV operators who take service from common carriers. For example, a state court decision that a telephone company possesses authorization to provide the service here at issue would be nullified by an FCC order denying that carrier a certificate under Section 214. Alternatively, the grant of a Section 214 certificate could nullify conditions locally imposed upon a common carrier—*e.g.*, limitations on cable placement, zoning controls, etc. *Cf. New Orleans Term. Co.* v. *Spencer,* 366 F.2d 160, 164 (5th Cir. 1966), *cert. denied,* 386 U.S. 942 (1967); *Scenic Hudson Pres. Conf.* v. *FPC,* 354 F.2d 608, 616 (2d Cir. 1965), *cert. denied,* 384 U.S. 941 (1966).

State or local policy to grant competitive franchises to CATV operators could also be frustrated by the FCC jurisdiction at issue here. Thus, the Commission could deny a certificate to a telephone company that proposes to provide common carrier service to one of two competitive CATV operators, thereby stifling competition by the CATV operator who uses common carrier service. Indeed, the Commission has just recently held that in applying Section 214 it will consider the existence of CATV-operator-owned, unregulated facilities and might deny a certificate to a common carrier who proposes service to a competitive operator, merely because of the existing CATV-owned facilities. *Better T.V., Inc.* v. *New York Telephone Co.,* 17 F.C.C. 2d 367 (1969).

The Commission could, of course, as a matter of grace or comity, avoid undermining the policies of state and local regulatory bodies in Section 214 proceedings by deferring to the decisions of those bodies. Such deference would, however, simply confirm both that the issues posed by Section 214 applications with respect to local lines are local in character and that the application of Section 214 to those lines in no way serves the federal policies underlying that section. *See, New England Telephone & Telegraph Co.,* 17 F.C.C. 2d 33 (1969). *Compare, ITT World Communications, Inc.,* 13 F.C.C. 2d 924 (1968).

The court's decision, while relating directly to the construction and operation of common carrier lines, also necessarily extends the Commission's jurisdiction to rates and to other aspects of common carrier service, again at the expense of state and local regulatory authority. Prior to the Commission's assertion of jurisdiction, this state and local jurisdiction had been exercised in every State in which this service is offered.[6] The court by sustaining the Commission's holding that the service rendered by the carriers is not an intrastate service ousted these States of the jurisdiction they had previously exercised over this service.

The Commission's assertion of jurisdiction over the rates for the common carrier service here at issue cannot be justified by any contention that such jurisdiction is ancillary to its effective control of CATV operators' rates, for while the FCC has jurisdiction over the operation—*i.e.,* the retransmission of broad-

[6] For example, the Bell System Companies had filed tariffs in 44 States covering CATV local distribution service; 20 of these States had instituted proceedings concerning these tariffs and 10 had held formal hearings. (R. 528; Tr. 483-90, 529-30, 564, 595-96).

cast signals—of all CATV systems, *United States* v. *Southwestern Cable Co.*, 392 U.S. 157 (1968), it does not have jurisdiction to regulate rates charged by CATV operators.[7] *See, TV Pix, Inc.* v. *Taylor*, — F.Supp. —, Civ. No. 1814 (D.Nev. 1968).

II. The Decision Below Gives CATV Operators Who Own Distribution Facilities an Undue Competitive Advantage Over Those Operators Who Rely Upon Common Carriers for Distribution Service

The advent of competition by CATV operators who rely on common carriers for local distribution service is a relatively new development in the CATV industry. The integrated CATV operators—those who own their own cable facilities—have predominated since the inception of the industry.

As noted above, the Commission's decision does not apply to integrated CATV operators and such an operator may therefore construct and operate his distribution facilities without obtaining any prior approval from the Commission. On the other hand, the CATV operator who for lack of sufficient capital to construct his own distribution facilities or for other compelling reasons wishes to use common carrier service for the local distribution of his signals must await the outcome of a Section 214 proceeding initiated by

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[7] Indeed, in the United States-FCC joint brief in United States v. Southwestern Cable Co., 392 U.S. 157 (1968), it was expressly represented to this Court that:

> "[The] regulation of the carriage of television signals by CATV systems . . . is the only aspect of CATV operations over which Commission authority has been asserted. No attempt has been made to franchise or otherwise regulate entry into the CATV business, nor to fix CATV rates or limit the number of systems which can operate in a particular area." Brief p. 42.

the carrier before he may begin operations. If the carrier's application is denied, the CATV operator who would have been the customer for the service will as a practical matter be barred from the market.

An integrated CATV operator by filing a protest to a Section 214 application for common carrier service to a competitive CATV operator can therefore prevent that competition or at least delay it for months or even years while he preempts the market by extending his own system. *See, Better T.V., Inc.* v. *New York Telephone Co., supra.* Thus, even if Section 214 authority is eventually granted, the CATV operator relying upon common carrier service may find it too late to compete with the operator whose construction of facilities was unregulated. The potential for tying up competitors in the administrative process is revealed by the fact that in the 13 months that have expired since the Commission's decision in this case of the many Section 214 applications that have been opposed only one has been granted. The decision below thus gives the Commission authority to regulate in an indirect and discriminatory manner entry and competition in the CATV industry—matters heretofore conceded to be of local concern.[8] Both because of its effect on federal-state relations and because of its impact on the free market the decision below should be reviewed by this Court.

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[8] See p. 11 n.7, *supra.*

III. The Decision Below Is Not Consistent With Applicable Decisions of This Court

The court below rejected the carriers' argument that since their common carrier service was in each instance but one provided within a single state (and not in connection with another carrier) it was an "intrastate communications service" within the meaning of Section 2(b)(1) and therefore that the service and the lines used to provide it were subject to state or local, not federal, regulation. The court held the service to be "interstate" solely because the carriers' lines are used to transmit interstate communications—*i.e.*, broadcast signals that cross state lines before being received by CATV operators and retransmitted along the carriers' lines. That holding is inconsistent with *Pennsylvania R.R.* v. *Public Utilities Commission*, 298 U.S. 170 (1936).

In that case the railroad contended that its common carrier service, although rendered solely within a single State, was an interstate service subject to ICC, not state, jurisdiction because the common carrier transported goods that had previously been transported across a state line. Describing such reasoning as a "confusion of thought," 298 U.S. at 174, this Court held that the common carrier service was "intrastate service," notwithstanding that the goods were moving in interstate commerce, since all of the common carriage in that case was provided entirely within one State. *See also, Pennsylvania R.R.* v. *United States*, 242 F.Supp. 890 (E.D.Pa. 1965), *aff'd*, 382 U.S. 372 (1966), a recent reaffirmation of the *Public Utilities Commission* doctrine.

The court below deemed these cases inapplicable, holding that the ICC's jurisdiction over transporta-

tion common carriers is more limited than the FCC's jurisdiction over communications common carriers under Title II of the Communications Act. In so holding, the court relied upon a pervasive regulatory power over communications common carriers that it thought was conferred by Title III of the Act, although that Title pertains only to the Commission's jurisdiction over broadcasters and other radio users.

In enacting the common carrier provisions (Title II) of the Communications Act Congress transferred jurisdiction over communication common carriers from the ICC to the FCC, and for the most part adopted with minor modification those provisions of the Interstate Commerce Act that are used for the regulation of rail common carriers.[9] What differences there are between Title II of the Communications Act and the Interstate Commerce Act reflect a Congressional intent to make the common carrier provisions of the Communications Act even more protective of state regulation than the provisions of the Interstate Commerce Act. *See,* 78 Cong. Rec. 8823 (1934) (Remarks of Sen. Dill, chairman of the Senate Committee that drafted and sponsored the Communications Act). Thus, the "Congressional policy of reserving exclusively to the States control over . . . essentially local activities" that underlies the Interstate Commerce Act, *Yonkers* v. *United States,* 320 U.S. 685, 690

[9] "In this bill many provisions are copied verbatim from the Interstate Commerce Act because they apply directly to communication companies doing a common carrier business, but in some paragraphs the language is simplified and clarified. These variances or departures from the text of the Interstate Commerce Act are made for the purpose of clarification in their application to communications, rather than as a manifestation of Congressional intent to attain a different objective." Sen. Rep. No. 781, Committee on Interstate Commerce, 73d Cong., 2d Sess., p. 2 (1934).

(1944), *a fortiori* applies to the common carrier provisions of the Communications Act.[10]

The Commission's power over broadcasters and other radio users under Title III of the Communications Act in no way overrides the specific provisions in Title II that were designed to preserve state regulation of common carriers. The Commission's Title III powers are applicable to common carriers only where the carriers themselves are radio users—*e.g.*, common carrier transmission by microwave, mobile radio service, etc. *See e.g., Carter Mountain Trans. Corp.* v. *FCC*, 321 F.2d 359 (D.C. Cir.), *cert. denied*, 375 U.S. 951 (1963). This case involves no radio transmission by common carriers, *Fortnightly Corp.* v. *United Artists Television, Inc.*, 392 U.S. 390 (1968), and the court below therefore erred in holding that the decisions of this Court with respect to intrastate common carrier service were inapplicable in view of the Commission's power over broadcasting.

The court's error in confusing the Commission's Title II and Title III powers also controlled its determination of the issues arising under each of the other statutory provisions that limit the Commission's power in this case. It erroneously considered the Title III jurisdiction of the Commission as a sufficient basis for disregarding the ordinary meaning of the words Con-

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[10] The extent to which the common carrier provisions of the Communications Act preserve state and local regulatory authority is vividly illustrated by the fact that more than 75 percent of AT&T's investment in communication equipment, which totals more than $35,000,000,000, is not subject to the FCC's jurisdiction and is regulated instead by state and local agencies. AT&T, 9 F.C.C. 2d 30, 39 (1967).

gress used in imposing limitations upon the Commission's authority under Section 214(a). Thus, it held that an intrastate common carrier line could be combined with a non-common-carrier broadcast signal to form an "interstate line," in rejecting the carriers' argument that Section 214(a)(1) exempts their intrastate common carrier lines from certification. On the same rationale, it held that, despite the local character of the common carrier line here, Section 214(a)(2), which exempts "local, branch, or terminal lines" from FCC's jurisdiction, did not apply since the court believed the "central purpose" of this exemption would not be served by applying it to the provision of "TV service by CATV." Finally, the court rejected the argument of the connecting carriers for exemption under Section 2(b)(2), holding that the exemption, which pertains to all forms of communication, was meant only to protect state jurisdiction over "local telephone facilities," not facilities used for the transmission of signals by CATV operators.

CONCLUSION

The writ should be granted for each of the above-stated reasons.

Respectfully submitted,

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ATTACHMENT A

General Telephone System Companies:

General Telephone Company of California;
General Telephone Company of Indiana, Inc.;
General Telephone Company of Michigan;
General Telephone Company of Ohio;
General Telephone Company of Pennsylvania; and
General Telephone Company of the Southwest.

United Telephone System Companies:

United Inter-Mountain Telephone Company;
United Telephone Company of the Northwest;
United Telephone Company of Arkansas;
United Telephone Company of the Carolinas, Inc.;
United Telephone Company of Iowa;
United Telephone Company of Kansas, Inc.;
United Telephone Company of Missouri;
United Telephone Company of Ohio;
The United Telephone Company of Pennsylvania; and
The Columbia-United Telephone Company.

Bell System Companies:

The Chesapeake and Potomac Telephone Company of Virginia;
The Chesapeake and Potomac Telephone Company of West Virginia;
The Cincinnati and Suburban Bell Telephone Company;
The Diamond State Telephone Company;
Illinois Bell Telephone Company;
Indiana Bell Telephone Company;
Michigan Bell Telephone Company;
The Mountain States Telephone and Telegraph Company;
New England Telephone and Telegraph Company;
New York Telephone Company;
Northwestern Bell Telephone Company;
Ohio Bell Telephone Company;
Pacific Northwest Bell Telephone Company;

Pacific Telephone and Telegraph Company;
Southern Bell Telephone and Telegraph Company;
South Central Bell Telephone Company;
Southern New England Telephone Company;
Southwestern Bell Telephone Company; and
Wisconsin Telephone Company.

ATTACHMENT B

Alabama (Sec. 105, Tit. 48, Art. III, Alabama Code)
Alaska (Sec. 42.05.193, Alaska Stats.)
Arizona (Sec. 40-281 Arizona Rev. Stats.)
Arkansas (Sec. 73-240, Chap. 2, Arkansas Stats. Ann. (1957 replacement))
California (Sec. 1001, West's Ann. California Codes, Public Utility Code, Chap. 5, Art. 1)
Colorado (Sec. 115-5-1 Colorado Rev. Stats.)
Connecticut (Secs. 16-248 & 16-249, Chap. 283, Gen. Stats. of Connecticut, Revision of 1958)
Delaware (Sec. 162, Tit. 26, Delaware Code Ann.)
Florida (Sec. 364.33 Florida Stats. Ann.)
Georgia (Sec. 93-324 Code of Georgia)
Idaho (Sec. 61-526 Idaho Code)
Illinois (Sec. 56, Chap. 111⅔, Smith-Hurd Illinois Ann. Stats.)
Kansas (House Bill 1724, new laws 1968 p. 493).
Kentucky (Sec. 278.020 [3952-25], Tit. 24, Kentucky Rev. Stats.)
Louisiana (Sec. 4406, Tit. 33, Chap. 10, West's Louisiana Ann. Rev. Stats.)
Minnesota (Sec. 237.16 Minnesota Stats. Ann.)
Mississippi (Sec. 7716-05, Tit. 28, Chap. 5, Mississippi Code)
Missouri (Sec. 392.260 Vernon's Ann. Missouri Stats.)
Nebraska (Sec. 75-604 Rev. Stats. of Nebraska)
Nevada (Sec. 704.330 Rev. Stats.)
New Hampshire (Sec. 374:22 New Hampshire Rev. Stats.)
New York (Sect. 99, Book 47, Art. 5, McKinney Cons. Laws of New York Ann.)
North Carolina (Sec. 62-110 Gen. Stats. of North Carolina)
North Dakota (Sec. 49-03-01 North Dakota Century Code).
Oklahoma (Sec. 131, Tit. 17, Chap. 6, Oklahoma Stats.)
Pennsylvania (Sec. 1122, Tit. 66, Art. II, Purdon's Pennsylvania Stats. Ann.)
South Carolina (Sec. 58-378 Code of Laws of South Carolina)

Tennessee (Sec. 65-415 Tennessee Code)
Utah (Sec. 54-4-25 Utah Code)
Virginia (Sec. 56-265.2 Code of Virginia)
West Virginia (Sec. 24-2-11 West Virginia Code of 1961)
Wyoming (Sec. 37-31 Wyoming Stats.)